

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : BAKER et al.  
Serial No. : 10/817,058  
Filing Date : April 2, 2004  
For : Method of Treating Cardiac Ischemia by Using Erythropoietin  
Group Art Unit: 1653  
Examiner : MAYER, Suzanne Marie  
Confirmation No.: 2664

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**PETITION UNDER 37 CFR §1.47**

Sir:

I, John E. Baker, being an inventor in the above-identified patent application, and sole member and owner of Poietis LLC, the owner of 100% interest in the above-identified patent application, declare and say as follows:

**Statement of Facts.**

1. On or about August 19, 2005, Dr. Yang Shi, the named co-inventor in the above-identified patent application, executed a Transfer and Release of Intellectual Property (**Exhibit 1** – redacted copy) and an Assignment (**Exhibit 2**) to transfer her rights and interest and to be released of all obligations in connection with Provisional Application No. 60/460,684 and USSN 10/817,058.
2. An Assignment executed on August 19, 2005 by Dr. Shi to Poietis, LLC, was recorded in the U.S. Patent and Trademark Office on August 19, 2005 (Reel/Frame 016424/0162).
3. An Assignment executed on August 25, 2005 by me, Dr. John E. Baker, to Poietis, LLC, was recorded in the U.S. Patent and Trademark Office on August 29, 2005 (Reel/Frame 016465/0110).
4. I, Dr. John Baker, am the sole member and owner of Poietis, LLC (Wauwatosa, WI), owner of 100% interest in the above-identified patent application by virtue of the above-referenced Assignments.

5. On June 15, 2006, I met with Dr. Shi (aka Yang "Scarlet" Shi) at the Medical College of Wisconsin, and personally presented her with a Declaration under 37 CFR §1.131 (submitted herewith) for her review and execution. Dr. Shi informed me both orally (voicemail and in person) and in writing that she refused to sign this Declaration. The written message from Dr. Shi (signed "Scarlet"), dated June 15, 2006, is attached as **Exhibit 3**. She further advised me not to contact her again regarding this matter.
6. The last known address of Dr. Yang Shi, the named co-inventor, is 2116 North 115th Street, Wauwatosa, WI 53226.
7. I further hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Date:

March 15, 2007

By:

John E. Baker

John E. Baker, Ph.D.

(Redacted)

TRANSFER AND RELEASE OF INTELLECTUAL PROPERTY

This Intellectual Property Transfer and Release ("Transfer/Release") is entered into by and between Yang Shi, Ph.D., an individual having a residence at 2116 N. 115<sup>th</sup> Street, Wauwatosa, WI 53226 ("Dr. Shi"), and John E. Baker, Ph.D., an individual having a residence at 2131 N. 72<sup>nd</sup> Street, Wauwatosa, WI 53213 ("Dr. Baker");

WHEREAS, Dr. Shi and Dr. Baker have developed certain Ideas, inventions, and developments related to methods and products for use in treating myocardial ischemia utilizing erythropoietin, which are described in a United States provisional application serial number 60/460,684, filed in the U.S. Patent and Trademark Office on April 4, 2003, and entitled "Method of Preventing Cardiac Ischemia by Treatment with Erythropoietin," and in a United States patent application serial number 10/817,058, filed in the U.S. Patent and Trademark Office on April 2, 2004, and entitled "Method of Treating Cardiac Ischemia by Using Erythropoietin" ("the Patent Application");

WHEREAS, Dr. Shi wishes to transfer all of her rights in the Patent Application to Dr. Baker, and to be released of any and all obligations in connection with the Patent Application;

WHEREAS, Dr. Shi represents that she has the legal right to transfer such rights to Dr. Baker, and has not entered into any agreement with any other third party granting any rights to the Patent Application.

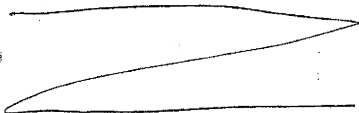
GRANT OF TRANSFER/RELEASE

Dr. Shi, and her successors and assigns, for and in consideration of the following:

1)

- 2) A full and complete release from any and all financial obligations to Dr. Baker and/or Poletis LLC in connection with the Patent Application, including legal fees;
- 3) A full and complete release from any and all legal liability in connection with the Patent Application, and Dr. Baker and Poletis, LLC agree to fully indemnify and hold Dr. Shi, her heirs and assigns harmless from any and all liabilities arising out of the patent application process;

4)



and for other good and valuable consideration receipt of which is hereby acknowledged, Dr. Shi hereby transfers to Dr. Baker, his successors, assigns, and agents, the Patent Application pursuant to an Assignment executed on even date herewith, and quits any claims thereto in the United States, and agrees to execute a Declaration(s) and/or other documents as may be required to obtain protection for the inventions disclosed in the Patent Application in the United States.

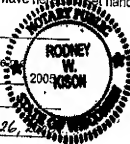
Nothing contained herein shall be construed as to prevent Dr. Shi from pursuing research and funding for the use of erythropoietin, or compelling her in any manner to provide research, information or knowledge regarding her use of erythropoietin.

Each party has read and fully understands this Transfer/Release. This Transfer/Release and the Assignment executed on even date herewith represent the entire agreement of the parties with respect to the subject matter described herein.

Dr. Shi further understands and agrees that this Release is Irrevocable and may not be changed or rescinded except in writing signed by both of the parties.

IN WITNESS WHEREOF, I have hereunto set hand and seal this 19<sup>th</sup> day of August, 2005.

Date: 8/19/2005



Yang Shi

Subscribed and sworn to before me this 19<sup>th</sup> day of August, 2005.

Notary Public, State of Wisconsin  
My commission expires: Oct. 26, 2009

Date: 8/19/2005

Subscribed and sworn to before me this 19<sup>th</sup> day of August, 2005.

Notary Public, State of Wisconsin  
My commission expires: 11-16-06



J. E. Baker

**ASSIGNMENT**

In consideration of good and valuable consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, Yang Shi, having a residence at 2116 North 115th Street, Wauwatosa, WI 53226 ("ASSIGNOR") by these presents does hereby assign and transfer to Poletis, LLC, 2131 North 72nd Street, Wauwatosa, WI 53213 ("ASSIGNEE") and the successors, assigns, and legal representatives of the ASSIGNEE, the entire right, title and interest in and to the inventions disclosed in United States provisional application serial no. 60/460,684 (filed April 4, 2003) entitled Method of Preventing Cardiac Ischemia by Treatment with Erythropoietin, and United States patent application serial no. 10/817,058 (filed April 2, 2004) entitled Method of Treating Cardiac Ischemia by Using Erythropoietin, and in and to said applications and all Letters patent in the United States to be obtained for said inventions by said applications, and any division, continuation, reissue, renewal, or reexamination of the applications or Letters patent thereof in the United States, and hereby authorizes the U.S. Commissioner of Patents and Trademarks to issue such U.S. Letters Patent to ASSIGNEE for the sole use of ASSIGNEE, its successors or assigns. This is an assignment of the invention disclosed in United States provisional application serial no. 60/460,684 (filed April 4th, 2003) and United States patent application serial no. 10/817,058 (filed April 2, 2004) only and does not extend to or prevent Dr. Shi from continued and future research involving Erythropoietin.

ASSIGNOR further agrees to execute, at the request and expense of ASSIGNEE such other formal documents as may be required to fully convey the interest transferred herein and will similarly execute any application papers required for the filing of any division, continuation, renewal, reexamination, or reissue of the patent application or resulting Letters Patent.

To be binding on the heirs, assigns, representatives, and successors of the undersigned, and extend to the successors, assigns, and nominees of the ASSIGNEE.

IN WITNESS WHEREOF, I have hereunto set hand and seal this 19<sup>th</sup> day of August, 2005.

Date: 8/19/2005

Yang Shi

Subscribed and sworn to before me  
this 19<sup>th</sup> day of August, 2005.

Robert J. Diani  
Notary Public, State of Wisconsin  
My commission expires: October 26, 2008



EXHIBIT 3

Jun 15, 2006

Dear John,

I have received the papers and find that I can't sign them as you requested.

As you remember, I already signed the document for the BPO declaration, which represents my best knowledge of it. This is the extent of my involvement in this. Please do not contact me regarding this subject again.



Scarlet

6-15-06